



Licensees' Renewal of Liability Insurance

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The North Carolina Structural Pest Control Law requires all licensees to provide evidence of their financial ability to compensate persons who suffer harm from the use or application of pesticides. Licensees must show that they have adequate means to provide that compensation by having liability insurance or other means acceptable to the Committee." (*N.C. Gen. Stat § 106-65.37*). The corresponding rule issued by the Structural Pest Control Committee, (02 NCAC 34.0902(b), establishes minimum coverage amounts for liability insurance policies:

- | | |
|---------------------------|---------------------------|
| (1) Single limit | |
| Property Damage | \$100,000 Each Occurrence |
| Bodily Injury | \$300,000 Each Occurrence |
| (2) Combined single limit | \$300,000 Each Occurrence |

Licensees are required to submit proof that they have adequate insurance in the form of a Certificate of Insurance to the Division. The Division cannot issue, reissue or renew a license until it has received a Certificate of Insurance from the licensee.

Only liability insurance policies issued to companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance satisfy these requirements.

Licensees may not cancel or allow their liability insurance to lapse or allow a reduction in the available coverage under their policy or policies. Subparagraph (f) of this administrative rule provides that a license shall expire upon:

- (1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
- (2) cancellation of the policy; or
- (3) expiration of the policy.

If a license expires for one of these three reasons, it will be reinstated only if the licensee or his insurance company provides to the Division "satisfactory proof that the licensee has obtained the required financial responsibility coverage."

Every year, the Structural Pest Control Section (SPCS) must pursue regulatory action before the Structural Pest Control Committee against licensed operators, who allow their liability insurance to lapse and continue to do business. Under 02 NCAC 34 .0902 a license expires when the insurance policy has lapsed. When that happens, the licensee must stop providing all services that require a license. The license is expired until such a time as the licensee, the licensee's insurance company or the pest control company can prove to SPCS they have obtained or reinstated their insurance.

Any structural pest control work done while there is a lapse in insurance coverage is a violation of the N.C. Structural Pest Control Law and the Structural Pest Control Committee can revoke, refuse renewal or refuse reinstatement, and/or impose a civil money penalty for such a violation.

During the Committee meeting on May 15, 2008, the Committee discussed this problem and considered possible increased sanctions it might impose to curb this trend. Among the sanctions and penalties considered by the Committee were:

- Increase the payment the Committee would require to be paid under any agreement submitted to it by the Section and a licensee cited for operating without adequate insurance. The payment amount required will be based on amount of work done and/or the total time the insurance was lapsed.

- Require the licensee to contact the Insurance Company (they had prior to the lapse) to see if it is even feasible to get his policy reinstated with the carrier he previously had. We are advised that, in rare cases that Insurance Company will go back and put in force coverage during the lapse if it was a good client, they were not a pay problem in the past, there are no known claims, or some other possible reason. They may have to pay the rest of the policy's premium and sign a statement of no losses and that he did not let lapse deliberately. This is done only in special circumstances and happens rarely, but it is the best-case scenario if you can get it resolved this way. If they cannot do this to get coverage during the lapsed period, the licensee should then try to purchase coverage from an E&S (Excess Surplus lines) Insurance Company for the lapsed period. The premiums for E&S Markets are much more expensive and cost may depend on the amount of lapsed time, amount of work done during that period, size of the company, history of that company, and numerous other items. NOTE - If the original detection of any problem was made while the Insurance was lapsed, there still could be a situation where there is "no" coverage."

- Require licensee to re-inspect all WDIR 100's and termite work done during the lapse of insurance. The licensee would have to get inspection notices signed by the customer for each inspection and furnish copies to the Structural Pest Control Section. The licensee's insurance company may also require copies of these inspections.

Losing your license is a possibility but not the only likely cost of allowing your insurance to lapse. You can easily prevent this from happening, simply by taking those steps that will ensure you renew your insurance coverage on time each year.

RALEIGH LICENSE EXAM LOCATION

The monthly license/certification exams are administered at the Gov. James B. Martin Building which is located at the N.C. State Fairgrounds. The physical address for the fairgrounds is 1025 Blue Ridge Road, Raleigh, N.C. The most convenient entrance to find this building is located off of Trinity Road through Gate 9. From Blue Ridge Road, turn onto Trinity Road and Gate 9 will be your first entrance to the fairgrounds on your left. After Entering Gate 9, the Gov. James B. Martin Building will be the first building on your right.

RT Schools, Exam Dates and Locations



July

July 10, 2008 9:30 AM

License and Certification Exams Gov.
James G. Martin Building-N.C. State
Fairgrounds
1025 Blue Ridge Road
Raleigh, N.C. (919) 733-6100

July 10, 2008 8:30 AM

RT School
J. Edward Booth Field Learning Lab.
NCSU
4000 Chi Dr. off Lake Wheeler Rd. south
of the Beltline
Raleigh, NC 27607
See website for map
(919) 733-6100

July 17, 2008 8:30AM

RT School
Iredell County
444 Bristol Dr., Room 110
Statesville, NC 28677
(704) 873-0507 for directions
(919)733-6100 for information

July 22, 2008 10:00 AM

Certification Exams Only
Mountain Horticultural Research
& Extension Center
455 Research Drive
Fletcher, N.C.
828-684-3562 for directions
(919)733-6100 for information

July 23, 2008 8:30 AM

RT School
New Hanover Cooperative Ext. Center
6206 Oleander Dr
Wilmington, NC 28403-3822
(910) 798-7660 for directions
(919)733-6100 for information

August

August 5, 2008 9:30 AM

License and Certification Exams
Gov. James G. Martin Building-N.C.State
Fairgrounds
1025 Blue Ridge Road
Raleigh, NC 27607

August 7, 2008

8:30AM

RT School
Henderson County
Cooperative Extension Office
740 Glover St.
Hendersonville, NC 28792
(828)697-4891 for directions
(919)733-6100 for information

August 14, 2008

8:30 AM

RT School
J. Edward Booth Field
Learning Lab. NCSU
4000 Chi Dr. off Lake Wheeler Rd. south
of the Beltline
Raleigh, NC 27607
See website for map
(919) 733-6100

August 19, 2008

10:00 AM

Certification Exams Only
Cabarrus County Cooperative Ext. Office
715 Cabarrus Ave-West
Concord, NC 28027
(704)920-3310 for directions
(919)733-6100 for information

August 27, 2008

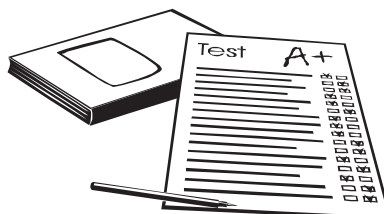
8:30 AM

RT School
Senator Bob Martin Eastern Agricultural
Center
2900 NC Hwy 125 South
Williamston, NC 27892
252-792-5802 for directions
(919)733-6100 for information

September

September 11, 2008 9:30 AM

License and Certification Exams
Gov. James B. Hunt, Jr. Horse Complex-
N.C. State Fairgrounds
4601 Trinity Rd
Raleigh, N.C.27607



September 11, 2008

8:30 AM

RT School
J. Edward Booth
Field Learning Lab. NCSU
4000 Chi Dr. off Lake Wheeler Rd. south
of the Beltline
Raleigh, NC 27607
See website for map
(919) 733-6100

September 17, 2008

8:30 AM

RT School
Cabarrus County Cooperative Ext. Office
715 Cabarrus Ave-West
Concord, NC 28027
(704)920-3310 for directions
(919)733-6100 for information

September 23, 2008

10:00 AM

Certification Exams Only
Sen. Bob Martin Eastern
Agricultural Center
2900 Hwy 125 S.
Williamston NC, 27892

October

October 2, 2008

1:00 PM

Certification Exams Only
Mtn. Horticultural Research
& Extension Center
455 Research Drive
Fletcher, N.C.
828-684-3562

October 2, 2008

8:30AM

RT School
Guilford County Cooperative Extension
Office- Barn
3309 Burlington Rd.
Greensboro, NC 27405
336-375-5876 for directions
(919)733-6100 for information

October 8, 2008

10:00 AM

License Exams Only
NCDA&CS Structural Pest Control &
Pesticides Division
Ballentine Building-2109 Blue Ridge Road
Raleigh, N.C. 27607

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REQUIRING BOOSTER TREATMENTS CAN BE A VIOLATION

The Division has recently received a number of complaints from homeowners who have received written notice from their pest control company that a termite "booster treatment" would have to be performed on their property. The notices stated that the new treatment was required for the PCO's property damage warranty to remain in effect. The PCO's notice stated that the booster treatment would be provided when the property owner agreed to pay a fee in addition to the annual renewal fee. If the property owner opted not to pay for this additional treatment, then the PCO's warranty would provide coverage only for re-treatment. The PCO's notice explained that the termiticide used during the original treatment of the home broke down and become ineffective after about five years.

Please note that 02 North Carolina Administrative Code (NCAC) 34 .0101(a)(1) states:

"All licensed structural pest control operators shall faithfully and honestly carry out the provisions and terms of all contracts into which they enter for the control of structural pests."

Requiring a booster treatment for an additional fee as a condition to continuing an existing warranty is a unilateral change to an existing contract between a PCO and its customer. Any such change which

diminishes a customer's rights and/or protections from warranties violates 02 NCAC 34 .0101. There are two conditions in which such a change would be lawful:

- 1) If the written agreement with the property owner contains specific language with regards to this new additional treatment;
- 2) If the property owner agrees to change the existing contract and receives something additional of value (consideration) for his agreement to pay an additional fee for the new "booster" treatment.

Examples, for the first condition:

- The written agreement states that a booster treatment for an additional fee will be required after a specified number of years.
- The written agreement states that a booster treatment for an additional fee will be required at such time that research shows that the termiticide used can no longer be expected to provide protection of the structure. When the PCO invokes this clause in the agreement, he must at least be able to cite the specific information relevant to the termiticide used to treat the structure in question. (*See discussion of this topic below)

An example, for the second condition:

- The PCO sends a notice offering to change the original service contract, to provide a new booster treatment believed to be more effective than the original treatment, stating clearly that a one-time fee of \$100 dollars would be charged. In exchange, the annual renewal fee would be reduced by twenty percent. The property owner is given thirty days to accept or reject this offer to amend the original agreement. However, if the property owner rejects it, the PCO remains bound by the original agreement.

An example of when a company could not require a booster treatment would be as follows. ABC Exterminators has a contract that

states that the property owner may extend the warranty on an annual basis for the life of the property as long as annual renewal fee is paid on or before the anniversary date of the contract. In this case the booster treatment could not be forced on the property owner. As long as the renewal is paid on time then the original warranty agreed upon will stay in force.

*Some PCO's have notified their customers that a booster treatment is needed due to the termiticide breaking down after a certain number of years. Any statement informing customers or the public that a termiticide is less effective after a given period of time following application must be supported by reliable data. Sources of such data include the termiticide manufacturer, a consumer product testing organization (like the U.S. Forest Service Southern Research Station) or a peer-reviewed scientific study issued by a university chemistry or entomology department. Any representation lacking such support may be a violation of 02 NCAC 34 .0904(h), which prohibits "...publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business" Furthermore, licensees must be careful about how such data are used. Any misuse of data or recommendations published by an agency of the state or Federal governments may also violate 02 NCAC 34 .0904(c) which states "In solicitation of structural pest control business, no licensee or his employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure." (Reprint from SPCB 2004)



Exam dates continued from page 2

October 9, 2008 8:30 AM

RT School
J. Edward Booth Field
Learning Lab. NCSU
4000 Chi Dr. off Lake Wheeler Rd. south
of the Beltline
Raleigh, NC 27607
See website for map
(919) 733-6100

October 30, 2008 8:30AM

RT School
Gaston County Cooperative Ext. Office
1303 Dallas-Cherryville Hwy
Citizens Resource Center
Dallas, NC 28034
(704)922-0301 for directions
(919)733-6100 for information

SETTLEMENT AGREEMENTS APPROVED BY THE STRUCTURAL PEST CONTROL COMMITTEE ON MAY 15, 2008

1. Bo Alfredo Gilliam of Triad Pest Control, Inc., Winston Salem, NC agreed to pay a penalty in the amount of \$800.00 as a result of failing to maintain proper written records of wood-destroying organism work performed and for failing to make all written records available for inspection.

2. John Brady, an employee of Russ Pest Control, Ayden, N.C. agreed to pay a penalty of \$400.00 resulting from the misapplication of the termiticide Termidor 80WG. Mr. Brady applied this material adjacent to the inside foundation wall without first trenching. This is a violation of the Termidor 80WG label.

3. Leonard E. Cook, Sr. of Cook's Exterminating & Insulation Company, Mooresville, NC agreed to pay a penalty in the amount of \$600.00 for performing structural pest control after his insurance had lapsed. During this lapse, 12 p-phase services were performed and 13 w-phase services were performed.

4. Travis Huntsman of Mantis Pest Control, Cornelius, NC agreed to pay a penalty in the amount of \$4,000.00 for performing structural pest control after there was a lapse in his liability insurance. During this lapse approximately 630 p-phase services were performed under his p-phase license.

5. Willie Adams also of Mantis Pest Control, Cornelius, NC agreed to pay the sum of \$400.00 for performing wood-destroying organism work while his liability insurance had lapsed. A total of 12 wood-destroying inspections and/or treatments were performed under his w-phase license.

1,200 copies of this public document were printed at a cost of \$208.76 or \$.17 per copy.

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& Consumer Services
Structural Pest Control & Pesticide Division
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